

Law360's Legal Lions Of The Week

By **Kevin Penton**

Law360 (August 25, 2023, 12:42 PM EDT) -- Georgetown Law's Appellate Courts Immersion Clinic and Ellwanger Law lead this week's edition of Law360 Legal Lions after the full Fifth Circuit unwound decades-old precedent that limited the scope of Title VII of the Civil Rights Act to "ultimate employment decisions."

The clinic and law firm represented a group of female detention officers who last Friday **successfully challenged** the legality of the Dallas County Sheriff's Department's scheduling policy that only allowed male officers to have full weekends off. The officers are represented by Madeline Meth and Brian Wolfman of the Georgetown Law Appellate Courts Immersion Clinic and Jay D. Ellwanger of Ellwanger Law.

Phillips Erlewine Given & Carlin LLP succeeded **Monday** after the California Supreme Court determined that third parties contracted by employers to screen job applicants can be held responsible under state civil rights law for asking intrusive medical questions. The firm represented two workers who alleged that medical providers conducted thousands of invasive screening exams and asked questions unrelated to job responsibilities. The workers are represented by R. Scott Erlewine, Brian S. Conlon and Kyle P. O'Malley of Phillips Erlewine.

Dinse PC triumphed on behalf of Vermont Law School last Friday after the Second Circuit determined that the school can use barriers to conceal a controversial mural depicting the state's role in the Underground Railroad. The three-judge appellate panel **rejected claims** by the painter that his work has effectively been destroyed. Vermont Law School is represented by Justin Barnard and Karen McAndrew of Dinse.

Jenner & Block LLP, BakerHostetler and Kirkland & Ellis LLP succeeded at the Fourth Circuit last Friday after a three-judge panel **scrapped** a ruling that certified eight classes of potentially millions of Marriott International Inc. guests in multidistrict litigation over a major data breach at the company's Starwood-branded hotels. The panel found that the lower court hadn't properly "considered the import" of a class action waiver signed by all guests. Marriott is represented by Lindsay C. Harrison, Matthew S. Hellman, Michelle S. Kallen, Elizabeth B. Deutsch and Mary E. Marshall of Jenner & Block and Daniel R. Warren, Gilbert S. Keteltas, Lisa M. Ghannoum, Dante A. Marinucci and Kyle T. Cutts of BakerHostetler. Accenture LLP, a consulting company that worked with Marriott-owned Starwood Hotels and Resorts Inc. at the time of the 2018 discovery of the data breach, is represented by Craig S. Primis, Devin S. Anderson, Emily M. Long and Katherine E. Canning of Kirkland & Ellis.

Reed Smith LLP and Vinson & Elkins LLP succeeded last Friday after the Eleventh Circuit **refused to vacate** \$285 million in arbitral awards issued to the operator of the Panama Canal in a contentious dispute over a multibillion-dollar project to expand the famous waterway. The three-judge panel rejected arguments that hidden ties between the arbitrators had created an impression of bias. Autoridad del Canal de Panamá is represented by James L. Loftis, Timothy J. Tyler, Matthew C. Hoffman and Peter D. Danysh of Vinson & Elkins and José I. Astigarraga, Sujeý S. Herrera and Edward M. Mullins of Reed Smith.

Sullivan & Cromwell LLP and Paul Weiss Rifkind Wharton & Garrison LLP round out this week's pride after they guided the **\$9.6 billion acquisition** of sandwich chain Subway by private equity firm Roark Capital, in a deal confirmed Thursday. Subway was represented by Francis J. Aquila and Melissa Sawyer of Sullivan & Cromwell. Roark was represented by Jeffrey D. Marell and Sarah Stasny of Paul Weiss.

--Additional reporting by Vin Gurreri, Patrick Hoff, Elliot Weld, Allison Grande, Caroline Simson, Elaine Briseño and Al Barbarino. Editing by Nicole Bleier.

--*Update: This article has been updated with the names of additional counsel.*